

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 104 be amended to read as follows:

- 1 Page 1, line 17, after "civil" insert "**and criminal**".
- 2 Page 1, line 17, after "indigent" insert "**counsel**".
- 3 Page 1, line 17, delete "(IC 34-10-1-2)" and insert "**(IC 33-9-14-1)**".
- 4 Page 2, line 1, delete "civil indigent".
- 5 Page 2, between lines 14 and 15, begin a new paragraph and insert:
- 6 "SECTION 2. IC 33-9-13-3 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The
- 8 commission shall do the following:
- 9 (1) Make recommendations to the supreme court of Indiana
- 10 concerning standards for indigent defense services provided for
- 11 defendants against whom the state has sought the death sentence
- 12 under IC 35-50-2-9, including the following:
- 13 (A) Determining indigency and eligibility for legal
- 14 representation.
- 15 (B) Selection and qualifications of attorneys to represent
- 16 indigent defendants at public expense.
- 17 (C) Determining conflicts of interest.
- 18 (D) Investigative, clerical, and other support services
- 19 necessary to provide adequate legal representation.
- 20 (2) Adopt guidelines and standards for indigent ~~defense~~ services
- 21 under which the counties will be eligible for reimbursement under
- 22 IC 33-9-14, including but not limited to the following:
- 23 (A) Determining indigency and the eligibility for legal
- 24 representation.

(B) The issuance and enforcement of orders requiring the defendant to pay for the costs of court appointed legal representation under IC 33-9-11.5.

(C) The use and expenditure of funds in the county supplemental public defender services fund established by IC 33-9-11.5.

(D) Qualifications of attorneys to represent indigent defendants at public expense.

(E) Compensation rates for salaried, contractual, and assigned counsel.

(F) Minimum and maximum caseloads of public defender offices and contract attorneys.

(3) Make recommendations concerning the delivery of indigent defense services in Indiana.

(4) Make an annual report to the governor, the general assembly, and the supreme court on the operation of the ~~public defense~~ **civil and criminal indigent counsel** fund.

SECTION 3. IC 33-9-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The ~~public defense~~ **civil and criminal indigent counsel** fund is established to receive court costs or other revenues for county reimbursement and administrative expenses. The fund shall be administered by the division of state court administration of the supreme court of Indiana. **Money deposited in the fund under IC 16-37-1-9 may be used only to reimburse a county for expenses related to the assignment of an attorney to represent an indigent in a civil case under IC 34-10-1-2.**

SECTION 4. IC 33-9-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the ~~public defense~~ **civil and criminal indigent counsel** fund for an amount equal to fifty percent (50%) of the county's expenditures for indigent defense services provided to a defendant against whom the death sentence is sought under IC 35-50-2-9.

(b) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the ~~public defense~~ **civil and criminal indigent counsel** fund for an amount equal to forty percent (40%) of the county's expenditures for indigent defense services provided in all noncapital **criminal** cases except misdemeanors.

(c) A request under this section from a county described in IC 33-9-15-1(3) may be limited to expenditures for indigent **criminal** defense services provided by a particular division of a court.

(d) A county auditor may submit on a quarterly basis a certified request to the public defender commission for reimbursement from the civil and criminal indigent counsel fund for an amount equal to

1 **forty percent (40%) of the county's expenditures for civil indigent**
 2 **services under IC 34-10-1-2.**

3 SECTION 5. IC 33-9-14-6 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. If the ~~public~~
 5 ~~defense civil and criminal indigent counsel~~ fund would be reduced
 6 below two hundred-fifty thousand dollars (\$250,000) by payment in
 7 full of all county reimbursement for net expenditures in non-capital
 8 **criminal** cases that is certified by the state court administrator in any
 9 quarter, the commission shall suspend payment of reimbursement to
 10 counties in non-capital cases until the next semi-annual deposit in the
 11 ~~public defense civil and criminal indigent counsel~~ fund. At the end
 12 of the suspension period, the state court administrator shall certify all
 13 suspended reimbursement. If the ~~public defense civil and criminal~~
 14 ~~indigent counsel~~ fund would be reduced below two hundred-fifty
 15 thousand dollars (\$250,000) by payment in full of all suspended
 16 reimbursement in non-capital cases, the amount certified by the state
 17 court administrator for each county entitled to reimbursement shall be
 18 prorated. **However, with the exception of money deposited in the**
 19 **fund under IC 16-37-1-9, the state court administrator may not**
 20 **certify for payment costs arising from the assignment of an**
 21 **attorney to represent an indigent in a civil case unless all**
 22 **reimbursements to counties for expenses incurred in criminal cases**
 23 **can be paid in full.**

24 SECTION 6. IC 33-9-15-5 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The board
 26 shall prepare a comprehensive plan that must include at least one (1)
 27 of the following methods of providing legal **criminal** defense services
 28 to indigent persons:

- 29 (1) Establishing a county public defender's office.
- 30 (2) Contracting with an attorney, a group of attorneys, or a private
 31 organization.
- 32 (3) Utilizing an assigned counsel system of panel attorneys for
 33 case-by-case appointments under section 9 of this chapter.
- 34 (4) In a county described in section 1(3) of this chapter,
 35 establishing a public defender's office for the criminal division of
 36 the superior court.

37 (b) The plan prepared under subsection (a) shall be submitted to the
 38 commission.

39 SECTION 7. IC 33-9-15-10 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) This chapter
 41 does not prevent a court from appointing counsel other than counsel
 42 provided for under the board's plan for providing **criminal** defense
 43 services to an indigent person when the interests of justice require. A
 44 court may also appoint counsel to assist counsel provided for under the
 45 board's plan as co-counsel when the interests of justice require.
 46 Expenditures by a county for **criminal** defense services not provided

1 under the county public defender board's plan are not subject to
 2 reimbursement from the ~~public defense~~ **civil and criminal indigent**
 3 **counsel** fund under IC 33-9-14.

4 (b) A judge of a court having criminal jurisdiction may make a
 5 written request to the state public defender to provide a qualified
 6 attorney for the defense of a person charged in the court with a criminal
 7 offense and eligible for representation at public expense if the judge
 8 determines:

- 9 (1) that an attorney provided under the county public defender
 10 board's plan is not qualified or available to represent the person;
 11 or
- 12 (2) that in the interests of justice an attorney other than the
 13 attorney provided for by the county defender board's plan should
 14 be appointed.

15 The judge shall attach to the request a copy of the information or
 16 indictment. Expenditures for representation under this subsection shall
 17 be paid by the county according to a fee schedule approved by the
 18 commission. These expenditures are eligible for reimbursement from
 19 the ~~public defense~~ **civil and criminal indigent counsel** fund.

20 SECTION 8. IC 33-9-15-10.5 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.5. (a) A county
 22 public defender board shall submit a written request for reimbursement
 23 to the county auditor. The request must set forth the total of the
 24 county's expenditures for indigent **criminal** defense services to the
 25 county auditor and may be limited in a county described in section 1(3)
 26 of this chapter to expenditures for indigent defense services provided
 27 by a particular division of a court. The county auditor shall review the
 28 request and certify the total of the county's expenditures for indigent
 29 defense services to the public defender commission.

30 (b) Upon certification by the public defender commission that the
 31 county's indigent defense services meet the commission's standards, the
 32 auditor of state shall issue a warrant to the treasurer of state for
 33 disbursement to the county of a sum equal to forty percent (40%) of the
 34 county's certified expenditures for indigent defense services provided
 35 in noncapital cases except misdemeanors.

36 (c) If a county's indigent defense services fail to meet the standards
 37 adopted by the public defender commission, the commission shall
 38 notify the county public defender board and the county fiscal body of
 39 the failure to comply with the commission's standards. Unless the
 40 county public defender board corrects the deficiencies to comply with
 41 the standards not more than ninety (90) days after the date of the
 42 notice, the county's eligibility for reimbursement from the ~~public~~
 43 ~~defense~~ **civil and criminal indigent counsel** fund terminates at the
 44 close of that fiscal year.

45 SECTION 9. IC 33-19-7-5 IS AMENDED TO READ AS
 46 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) On June 30

and on December 31 of each year, the auditor of state shall transfer to the treasurer of state six million seven hundred four thousand two hundred fifty-seven dollars (\$6,704,257) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established under IC 12-18-5-2 an amount equal to eleven and eight-hundredths percent (11.08%);

(2) the Indiana judges' retirement fund established under IC 33-13-8 an amount equal to twenty-five and twenty-one hundredths percent (25.21%);

(3) the law enforcement academy building fund established under IC 5-2-1-13 an amount equal to three and fifty-two hundredths percent (3.52%);

(4) the law enforcement training fund established under IC 5-2-1-13 an amount equal to fourteen and nineteen-hundredths percent (14.19%);

(5) the violent crime victims compensation fund established under IC 5-2-6.1-40 an amount equal to sixteen and fifty-hundredths percent (16.50%);

(6) the motor vehicle highway account an amount equal to twenty-six and ninety-five hundredths percent (26.95%);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to thirty-two hundredths of one percent (0.32%); and

(8) the Indiana judicial center drug and alcohol programs fund established under IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and twenty-three hundredths percent (2.23%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year the auditor of state shall transfer to the treasurer of state one million two hundred thousand dollars (\$1, 200,000) for deposit into the ~~public defense~~ **civil and criminal indigent counsel** fund established under IC 33-9-14."

Page 2, line 26, delete "A civil indigent fund is established for each county in".

Page 2, delete lines 27 through 32.

Page 2, line 33, delete "(d)".

Page 2, run in lines 26 through 33.

Page 2, line 35, after "civil" insert "**and criminal**".

Page 2, line 35, after "indigent" insert "**counsel**".

Page 2, line 35, delete "under subsection (c)" and insert "(**IC 33-9-14-1**)".

Renumber all SECTIONS consecutively.

(Reference is to ESB 104, as printed April 3, 2001.)

Representative Dvorak